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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,220	12/15/2003	Matthew Barrer	113175-00102	8637

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EXAMINER	
TARAE, CATHERINE MICHELLE	
ART UNIT	**PAPER NUMBER**
3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/734,220	BARRER, MATTHEW	
	Examiner	Art Unit	
	C. Michelle Tarae	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *26-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *26-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/14/04, 01/11/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the communication received on December 15, 2003.

Claims 1-25 have been canceled and claims 26-37 added in a preliminary amendment. Claims 26-37 are now pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 26-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Providing Automated External Defibrillation," 1995 [hereinafter, PAED] and Becker et al., "Public Locations of Cardiac Arrest: Implications for Public Access Defibrillation," 1998 [hereinafter, Becker].

As per claim 26, PAED discloses a method of providing a cardiac emergency readiness program at a facility comprising:

certifying that the cardiac emergency readiness program has met certain minimum requirements (page 1; New York State requires that AED providers meet minimum requirements including having successfully completed a State approved AED course.); and

providing ongoing support for the cardiac emergency readiness program including the promotion of the facility as having a certified cardiac emergency readiness program through a communication network (page 1; Every EMS agency is required to designate a physician who must establish quality assurance, training and continuing education of AED operators.).

PAED does not expressly disclose conducting a survey of the facility for determining the proper placement of at least one automated external defibrillator so as to assure a predetermined proximity to an AED by any victim of sudden cardiac arrest at the facility including the proper placement of the at least one automated external defibrillator in accordance with the survey. Becker discloses conducting a survey of the facility for determining the proper placement of at least one automated external defibrillator so as to assure a predetermined proximity to an AED by any victim of sudden cardiac arrest at the facility including the proper placement of the at least one automated external defibrillator in accordance with the survey (pages 1-2; A study was conducted to survey public locations of cardiac arrest and to determine optimal placement of AEDs at those locations.). At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify PAED to include surveying facilities to determine proper placement of AEDs as doing so aids in the EMS agency's requirement of providing quality assurance since proper placement of AEDs would enhance the level of quality of service provided by AED operators as it would ensure that all AEDs at the facility are readily accessible, thereby potentially improving the survival rate of people with cardiac arrests (see Becker, page 2).

As per claim 27, neither PAED nor Becker discloses wherein facility personnel conduct the survey. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ∋ 2106.*

As per claim 28, PAED does not expressly disclose placing the at least one automated external defibrillator in accordance with the survey. Becker discloses placing the at least one automated external defibrillator in accordance with the survey (pages 1-2; A study was conducted to survey public locations of cardiac arrest and to determine optimal placement of AEDs at those locations.). At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify PAED to include determining proper placement of AEDs as doing so aids in the EMS agency's requirement of providing quality assurance since proper placement of AEDs would enhance the level of quality of service provided by AED operators as it would ensure that all AEDs at the facility are readily accessible, thereby potentially improving the survival rate of people with cardiac arrests (see Becker, page 2; top of page 5).

As per claim 29, neither PAED nor Becker discloses wherein facility personnel conduct the survey. Becker discloses placing the at least one automated external

defibrillator (pages 1-2; A study was conducted to survey public locations of cardiac arrest and to determine optimal placement of AEDs at those locations.). At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify PAED to include determining proper placement of AEDs as doing so aids in the EMS agency's requirement of providing quality assurance since proper placement of AEDs would enhance the level of quality of service provided by AED operators as it would ensure that all AEDs at the facility are readily accessible, thereby potentially improving the survival rate of people with cardiac arrests (see Becker, page 2). With regard to who conducts the survey, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ∋ 2106.*

As per claim 30, PAED discloses selecting facility personnel to be responsible for the cardiac emergency readiness program liaison (page 1; Every EMS agency is required to designate a physician who must establish quality assurance, training and continuing education of AED operators.).

As per claim 31, PAED discloses maintaining the at least one automated external defibrillator (page 3; The type of AED used is indicated.).

As per claim 32, PAED discloses wherein facility personnel maintain the at least one automated defibrillator (page 3; The EMS agency and personnel must indicate the type of AED used.).

As per claim 33, PAED discloses training facility personnel to use the at least one automated external defibrillator (pages 1-3; Every EMS agency is required to designate a physician who must establish quality assurance, training and continuing education of AED operators.).

As per claim 34, PAED discloses wherein the step of providing ongoing support includes the maintenance of a checklist including the name of the person responsible for the cardiac emergency program and the number of automated external defibrillators (page 3-4; The EMS agency must identify the Medical Director responsible for the AED program and the AEDs used.).

As per claim 35, PAED discloses wherein the checklist is completed by facility personnel (pages 3-4; The EMS agency must identify the Medical Director responsible for the AED program and the AEDs used.).

As per claims 36-37, PAED does not expressly disclose wherein the facility is a hotel or a convention hall. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re*

Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ∋ 2106. Additionally, Becker discloses the facilities being indoor commercial or civic establishments (bottom of page 2). At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify PAED to have the facility be a hotel or a convention hall as such public facilities are locations with high rates of cardiac arrests, thus having a higher need for proper placement of AEDs (Becker, pages 2 and 5).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- "DClenable builds Innovative e-Learning, e-Commerce Portal for AED Medical-Safety Corporation," *Canada NewsWire*, Nov 23, 2000, discusses AED safety training and distribution;
- Consolo, Thomas. "New Cardiac Gear Curbed For Suffolk Ambulances State wants fast responses, certified crews first," *Newsday*, Jun 20, 1990, discusses certification/training issues with AEDs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. MICHELLE TARAE
PRIMARY EXAMINER

June 18, 2007